

**RECEIVED
CENTRAL FAX CENTER****APR 27 2007****REMARKS**

The Examiner has rejected claims 1 - 4, 9 - 11 under 35 USC 102(e) as being anticipated by Kimblad (US 2003 0153946), he has rejected claims 5 and 8 under 35 USC 103(a) as being unpatentable over Kimblad in view of Esposito (US 3 616 497) and he has rejected claims 6 and 7 under 35 USC 103(a) as being unpatentable over Kimblad in view of Perkins (US 3 915 361).

Kimblad (US 2003 153946) discloses a device or clip for the treatment of an atrioventricular regurgitation using a clip made of memory material. It comprises an H-shaped resilient clamp structure with grasping arms 8, 9 with free ends 16 for the engagement of tissue. The grasping arms 8, 9 are provided with cross-bars 12, 13 for receiving therebetween a support rod 19 on which they are supported, with the arms 8, 9 held in an open position until the clips are pushed off the support rod 19.

These clips are, in their shape and in their operation, quite different from the clip structure according to the present invention.

In the arrangement according to the present invention, a platelet of an elastic biocompatible material is provided with a central H-shaped cut such that the platelet forms a frame structure 5 with central tongues 3 that extend toward each other and have adjacent front edges 4 forming grasping elements. When the platelet is bent into a curved shape, the central tongues remain flat, but their edges move apart for accommodating therebetween some tissue which is firmly engaged therebetween when the platelet is released.

Although the device according to the invention is also a clip, it is obviously quite different from the clip of Kimblad: No pieces or sections of the platelet from which the clip is formed have to be cut out, there is no waste, the clip has relatively long engagement edges, it is small and very inexpensive to produce simply by providing an H-shaped cut in a platelet.

Obviously, the medical clip according to the invention is quite different from the device for the treatment of atrioventricular regurgitation as disclosed by Kimblad. It can clearly be said that the clip disclosed by Kimblad is not formed by an H-shaped cut in a platelet but rather

is what, with some imagination, can be considered to be an H-shaped sheet metal piece cut out of a metal sheet.

Kimblad does not disclose a platelet provided with a central H-shaped cut so as to form in the platelet a frame structure 5 with tongues 3 extending toward each other and having front edges 4 forming grasping elements, the frame structure 5 being curved for elastically biasing the front edges 4 of the tongues 3 toward each other.

The clip as defined in claim 1 is therefore certainly novel that is it is not anticipated by Kimblad.

And even though it may seem similar by superficial observation of a small plate into which H-shaped cuts are made, it is not the H-shaped cuts which represent the clip but the material sections freed from one another which form the clip; there is essentially no loss of material, no waste and little work needed to manufacture the clips according to the invention.

The clip as defined in claim 1 is therefore not only novel; it is, no doubt, also not obvious from Kimblad.

Reconsideration of claim 1 as amended is therefore respectfully requested.

Claim 2 defines the arrangement as shown in Figs. 2a - 2c, wherein the cut leaves 3 are bent inwardly toward the center of curvature of a curved frame structure so that the edges 4 of the leaves 3 are resiliently biased toward each other. Again, such an arrangement is not shown in, nor rendered obvious from, any of the references.

Claim 3 defines the arrangement as shown in Figs. 3a - 3c, wherein the frame structure 5 is curved and the leaves 3 are bent outwardly such that the edges 4 of the leaves 3 are again biased toward each other for retaining tissue between the edges 4. Again, such an arrangement is not shown in, nor rendered obvious from, any of the references cited.

Claims 4 - 8 relate to features considered to be advantageous in connection with the medical clip as defined in claim 1 or either one of claims 2 and 3 and should be patentable together with claim 1.

Claim 9 defines an apparatus for the application of medical clips as defined in claim 1. although the apparatus is similar to the application apparatus as shown in Kimblad, there is a difference as the clips are held open by clip engagement edges being held open directly by the guide rod on which they are disposed and from which they are moved off to engage the tissue disposed in front of the apparatus. The support rod is not intended to pierce any tissue, it only

is supposed to hold the clips open. And since the rod is not designed to pierce any tissue, the rounded front end serves only for controlling the release speed of the clips. They should engage the tissue at a certain speed upon their release to avoid damage to the tissue.

Claims 9, 10, and 11 should therefore also be patentable over the cited prior art and reconsideration of these claims is respectfully requested.

Claim 12 has already been allowed by the Examiner.

Concerning the double patenting issue, it is noted that the two applications will not be both be maintained. One of them will be abandoned once one of the applications has been accepted whereby the issue of double patenting should then be resolved.

Reconsideration of the rejections of the present application is respectfully requested and allowance of claims 1 - 12 is solicited.

Respectfully submitted,



Klaus J. Bach, Reg. No. 26832